

03-10-05

Q8 CPB628

PTO/SB/21 (04-04)

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## TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

		Application Number	09/420,033
		Filing Date	October 18, 1999
		First Named Inventor	Sutton et al.
		Art Unit	3628
		Examiner Name	Richard Rults
Total Number of Pages in This Submission		Attorney Docket Number	9204-000002

### ENCLOSURES (check all that apply)

<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to Technology Center (TC)
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment / Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Terminal Disclaimer	<input checked="" type="checkbox"/> Other Enclosure(s) <i>(please identify below):</i>
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Request for Refund	<b>Petition to Withdraw Holding of Abandonment Under 37 C.F.R. Section 1.181(a), Submission of Appeal Brief Dated September 12, 2002, Submission of Appeal Brief dated April 17, 2003, Acknowledgement Postcard.</b>
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Certified Copy of Priority Document(s)		
<input type="checkbox"/> Response to Missing Parts/ Incomplete Application		
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		
<b>Remarks</b>		The Commissioner is hereby authorized to charge any additional fees that may be required under 37 CFR 1.16 or 1.17 to Deposit Account No. 08-0750. A duplicate copy of this sheet is enclosed.

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Harness, Dickey & Pierce, P.L.C.	Attorney Name Timothy D. MacIntyre	Reg. No. 42,824
Signature			
Date	March 9, 2005		

### CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name	Michelle A. Smith	Express Mail Label No.	EV 570 162 777 US (3/9/2005)
Signature		Date	March 9, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

EV 570 162 777 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group Art Unit: 3628

Examiner: Richard Fults

Inventors: Sutton et al.

Serial No.: 09/420,033

Filed: October 18, 1999



) PETITION TO WITHDRAW  
)) HOLDING OF ABANDONMENT  
)) UNDER 37 C.F.R. §1.181(a)

Office of Patent Publications  
2231 Crystal Drive  
Crystal Park Three, Suite 920  
Arlington, VA 22202

Sir:

Applicant hereby petitions to request withdrawal of the holding of abandonment in accordance with 37 CFR 1.181(a). A Notice of Abandonment was issued on February 24, 2005 indicating that no reply had been received at the U.S. Patent Office. Applicant notes that a timely submission of an Appeal Brief first occurred on September 12, 2002 (as evidenced by the documents attached at Tab A, including a return postcard bearing a stamped receipt date of September 18, 2002). Upon failing to hear back, applicant resubmitted its Brief on April 17, 2003 (as evidenced by the documents attached at Tab B, including a return postcard bearing a stamped receipt of April 24, 2003). Finally, pursuant to a suggestion by the Examiner, Applicant hand delivered its Brief to Technology Center 3600 on December 4, 2003 (as evidenced by stamped receipt attached at Tab C). Accordingly, Applicant requests that this submission be entered at this time and the holding of abandonment withdrawn.

Applicant asserts that no fee is required with this petition, however, the Commissioner is hereby authorized to charge any fee insufficiencies to our Deposit Account No. 08-0750 or credit any overpayments to that deposit account.

Respectfully submitted,



Date: March 9, 2005

Timothy D. MacIntyre  
Reg. No. 42,824  
Attorney for Applicants

HARNESS, DICKEY & PIERCE, P.L.C.  
P.O. Box 828  
Bloomfield Hills, MI 48303  
(248) 641-1600

Applicant:	Sutton et al.	Case No.:	9204-000002	
Serial No.:	09/420,033	Filing Date:	October 18, 1999	
Title: A Method and System for Transacting a Purchase Using a Credit card From Seller				
<p>Please acknowledge receipt of: Check in the amount of \$160 (brief filing fee), Transmittal Form, Fee Transmittal (in duplicate), 11 page Brief on Behalf of Appellants (in triplicate), and this Postcard</p>			 <p>USPTO Date Stamp</p>	
<p>By stamping and returning to Harness, Dickey &amp; Pierce, P.L.C.</p> <table border="1"> <tr> <td>Due: 09/12/02</td> <td>Attorney: RLC/TDM</td> </tr> </table>				Due: 09/12/02
Due: 09/12/02	Attorney: RLC/TDM			

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# TRANSMITTAL FORM

(be used for all correspondence after initial filing)

Total Number of Pages in This Submission

11

Application Number	09/420,033
Filing Date	October 18, 1999
First Named Inventor	Sutton et al.
Group Art Unit	2164
Examiner Name	Richard Fults

Attorney Docket Number

9204-000002

## ENCLOSURES (check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Assignment Papers (for an Application)	<input type="checkbox"/> After Allowance Communication to Group	
<input checked="" type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences	
<input type="checkbox"/> Amendment / Response	<input type="checkbox"/> Licensing-related Papers	<input checked="" type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)	
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<input type="checkbox"/> Response to Missing Parts/ Incomplete Application	Remarks		
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53			

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Harness, Dickey & Pierce, P.L.C.	Attorney Name Timothy D. MacIntyre	Reg. No. 42,824
Signature			
Date	September 12, 2002		

## CERTIFICATE OF MAILING/TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231, or facsimile transmitted to the U.S. Patent and Trademark Office on the date indicated below.

Typed or printed name	Michelle A. Smith		
Signature		Date	September 12, 2002

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# FEE TRANSMITTAL for FY 2002

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT (\$ 160)

Complete if Known	
Application Number	09/420,033
Filing Date	October 18, 1999
First Named Inventor	Sutton et al.
Examiner Name	Richard Fults
Group / Art Unit	2164
Attorney Docket No.	9204-000002

METHOD OF PAYMENT (check all that apply)	
<input checked="" type="checkbox"/> Check	<input type="checkbox"/> Credit card
<input type="checkbox"/> Money Order	<input type="checkbox"/> Other
<input type="checkbox"/> Deposit Account:	
Deposit Account Number	08-0750
Deposit Account Name	Harness, Dickey & Pierce, P.L.C.

The Commissioner is authorized to: (check all that apply)

Charge fee(s) indicated below  Credit any overpayments

Charge any additional fee(s) during the pendency of this application

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FEE CALCULATION				
1. BASIC FILING FEE				
Large Entity Fee Code	Entity Fee (\$)	Small Entity Fee Code	Fee Description	Fee Paid
101	740	201	370	Utility filing fee
106	330	206	165	Design filing fee
107	510	207	255	Plant filing fee
108	740	208	370	Reissue filing fee
114	160	214	80	Provisional filing fee
SUBTOTAL (1)				(\$ 0)

2. EXTRA CLAIM FEES					
Total Claims	-20 **	=	Extra Claims	Fee from below	Fee Paid
Independent Claims		=	0	X	0
Multiple Dependent	-3 **	=	0	X	0
			X		0
Large Entity Fee Code	Entity Fee (\$)	Small Entity Fee Code	Fee Description	Fee Paid	
103	18	203	9	Claims in excess of 20	
102	84	202	42	Independent claims in excess of 3	
104	280	204	140	Multiple dependent claim, if not paid	
109	84	209	42	** Reissue independent claims over original patent	
110	18	210	9	** Reissue claims in excess of 20 and over original patent	
SUBTOTAL (2)				(\$ 0)	

\*\*or number previously paid, if greater; For Reissues, see above

3. ADDITIONAL FEES					
Fee Code	Large Entity Fee (\$)	Small Entity Fee Code	Fee (\$)	Fee Description	Fee Paid
105	130	205	65	Surcharge - late filing fee or oath	
127	50	227	25	Surcharge - late provisional filing fee or cover sheet	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	400	216	200	Extension for reply within second month	
117	920	217	460	Extension for reply within third month	
118	1,440	218	720	Extension for reply within fourth month	
128	1,960	228	980	Extension for reply within fifth month	
119	320	219	160	Notice of Appeal	
120	320	220	160	Filing a brief in support of an appeal	160
121	280	221	140	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive – unavoidable	
141	1,280	241	640	Petition to revive – unintentional	
142	1,280	242	640	Utility issue fee (or reissue)	
143	460	243	230	Design issue fee	
144	620	244	310	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	50	123	50	Processing fee under 37 CFR 1.17 (q)	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	
146	740	246	370	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	740	249	370	For each additional invention to be examined (37 CFR § 1.129(b))	
179	740	279	370	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	
Other fee (specify) _____					
*Reduced by Basic Filing Fee Paid				SUBTOTAL (3) (\$ 160)	

SUBMITTED BY					
Name (Print/Type)		Timothy D. MacIntyre	Registration No. Attorney/Agent)	42,824	Telephone
Signature					Date
September 12, 2002					

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

Attorney Docket No. 9204-000002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appeal No. \_\_\_\_\_

Group Art Unit: 2164 )  
Examiner: Richard Fults )  
Applicants: Sutton et al )  
Serial No.: 09/420,033 )  
Filed: October 18, 1999 )  
Title: A METHOD AND SYSTEM FOR )  
TRANSACTION A PURCHASE )  
USING A CREDIT CARD FROM SELLER )

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**BRIEF ON BEHALF OF APPELLANTS**

This is an appeal from the action of the Examiner dated March 12, 2002, finally rejecting Claims 1-11 of the present application. Copies of the appealed claims are attached as an appendix.

### I. Real Party In Interest

The real parties in interest in the present application are David B. Sutton and Douglas E. Blasiman, the inventors

### II. Related Appeals and Interferences

There are no known related appeals or interferences which will directly affect or be directly affected by or otherwise have a bearing on the Board's decision in the pending appeal.

### III. Status Of The Claims

Claims 1-11 are pending in the present application. Of the pending claims, Claims 1-11 stand rejected and are appealed.

### IV. Status Of Amendments

A response to the Examiner's final rejection of the pending claims was filed on July 12, 2002. At this time, Applicant has not yet received an Advisory Action from the Examiner. However, Applicant's response to the final rejection did not contain any amendments to the pending claims, and thus Claims 1-11 stand rejected as presented in attached appendix and are appealed.

### V. Summary Of The Invention

Applicants' invention is directed generally to generally directed to a method for

transacting a purchase between a buyer and a seller using a computer-implemented system.

Auction-type web sites, such as eBay.com, have demonstrated a good deal of success by providing an online person-to-person trading forum over the Internet. These auction-type sites act primarily as a matchmaker between sellers and bidders. In general, a seller desiring to sell an item over the Internet lists the item on the web site. Along with a description of the item, the listing may include a picture of the item, a minimum bid, a time duration for the bidding process, etc. Potential buyers are then able to place bids on the item. A successful or winning bid for each item on sale is determined by various mechanism administered by the web site. Upon designation of a winning bid, the successful bidder (i.e., the buyer) receives instructions as to where they should send payment. Typically, the payment must be remitted in the form of a certified check to the seller. Upon receipt of the check, the seller ships the item to the buyer. Unfortunately, there is an inherent risk with this payment process that after receiving payment, the seller may ship an item which is in poor condition, ship an item which is inconsistent with the description of the item or never ship the item to the buyer.

Applicant's invention provides an improved method for transacting a purchase between a buyer and a seller over the Internet. Initial steps of the purchase transaction are similar to the auction process described above (see page 4, lines 5-18 of the present application). However, the purchase transaction is completed by using credit card account information from both the buyer and the seller (see page 6, line 21 thru page 7, line 10 of the present application). Specifically, Applicant's invention involves crediting

the sale amount (less any previously agreed upon transaction fee) to the credit card account of the seller. Although current credit card clearinghouse regulations only permit credit transactions as "returns" (i.e., where a corresponding debit occurs on the seller's credit card account), Applicant's invention calls for a credit transaction without the customary corresponding debit being present on the seller's credit card account.

#### VI. Issues

Does U.S. Patent No. 6,202,051 (Woolston) and U.S. Patent No. 6,240,396 (Walker) render Claims 1-11 unpatentable under 35 U.S.C. §103(a)?

#### VII. Grouping of Claims

In the present application, a first group of Claims 1-6 are directed to a method for transacting a purchase between a buyer and a seller using a computer-implemented purchasing system; whereas a second group of Claims 7-11 are directed to a computer-implemented purchasing system.

#### VIII. Arguments

Claims 1-11 stand rejected under 35 USC §103(a) as being unpatentable over U.S. Patent No. 6,202,051 (Woolston) and U.S. Patent No. 6,240,396 (Walker).

Woolston is generally directed to a computer-implemented system that enables sellers to auction items to one or more potential buyers via the Internet. As noted by the Examiner, Woolston discloses various techniques for transacting a purchase between a buyer and a seller. Payment to the seller is generally achieved using two step process:

(1) crediting an internally maintained account for the seller (e.g., see accounts 824 in Fig. 12); and (2) subsequently, cutting a check to the seller (e.g., see col. 19, lines 26-29). To the extent that such techniques involve the use of credit card accounts, Woolston only describes debiting a credit card account of the buyer (e.g., see col. 5, lines 20-24). In other words, Woolston does not teach or suggest transacting a purchase that includes the step of crediting the credit card account of the seller.

Applicant's further asserts that the step of crediting the credit card account of a seller is not an obvious extension of Woolston. Current credit card clearinghouse regulations only permit credit transactions as "returns", that is where a corresponding debit occurs on the seller's credit card account. Applicant's claimed invention calls for a credit transaction without the customary corresponding debit being present on the seller's credit card account. Thus, any reference to known credit card clearing techniques would not teach or suggest the step of crediting the seller's credit card account.

The Examiner then relies on Walker to teach a method for transacting a purchase which involves crediting the credit card account of the seller. Walker is directed generally to a method and system for facilitating the purchase of event tickets. In the Office Action dated March 12, 2002, the Examiner asserts that Walker teaches crediting the credit card account of the seller (e.g., see col. 14, lines 42-45).

However, Applicant notes that the step of crediting the seller's credit card account occurs only after a corresponding debit has been placed on the credit card account of the seller. The Board's attention is drawn to step 776 in Figure 7f of Walker. Prior to completing the transaction between the buyer and seller, a portion of the seller's credit is

reserved as a fraud deterrent in the event the seller fails to deliver the tickets to the buyer (see col. 12, lines 47-65). Subsequently, upon verification that the tickets have been surrendered by the seller to the buyer, the seller's credit card account is credited at step 798. In other words, Walker teaches crediting the seller's credit card account when a corresponding debit has been previously placed on the account in accordance with customary credit card clearing regulations. Applicant asserts that Walker does not teach or suggest the step of crediting the seller's credit card account without a corresponding debit.

Applicant's invention is similarly directed to a method for transacting a purchase between a buyer and a seller using a computer-implemented system. However, the purchase transaction is completed by using credit card account information from both the buyer and the seller. Specifically, Applicant's claimed invention involves crediting the sale amount (less any previously agreed upon transaction fee) to the credit card account of the seller. For instance, Claim 1 recites "transacting a purchase between the buyer and the seller using credit card account information from the buyer and the seller, including the step of crediting the credit card account of the seller" in combination with the other elements recited in the claim. Likewise, Claim 7 recites "said transaction manager being further operative to transact a purchase between the buyer and the seller using the credit card account information from the buyer and the seller, including crediting the credit card account of the seller" in combination with the other elements recited in the claim.

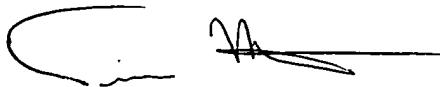
In sum, neither Woolston or Walker teach or suggest transacting a purchase that includes the step of crediting the credit card account of the seller. In view of known credit

card clearinghouse regulations, Applicant further asserts that the step of crediting the credit card account of a seller is not an obvious extension of either Woolston or Walker. Therefore, it is respectfully submitted that Claims 1 and 7, along with claims depending therefrom, defines patentable subject matter over Woolston and Walker.

#### IX. CONCLUSION

In view of the above-presented discussion, Applicants believe that the rejected claims are patentably distinguishable over the art cited by the Examiner. Accordingly, Applicant's respectfully request that this Board reverse the final rejection of Claims 1-11.

Respectfully submitted,



September 12, 2002

Timothy D. MacIntyre  
Registration No. 42,824

HARNESS, DICKEY & PIERCE  
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Troy, Michigan 48303  
(248) 641-1600

TDM/mas  
Attorney Docket No. 9204-000002

## APPENDIX

### X. Claims On Appeal

1. A method for transacting a purchase between a buyer and a seller using a computer-implemented purchasing system, the purchasing system having at least two computing devices interconnected by a network, comprising the steps of:

offering an item for sale through the use of a purchase transaction manager, said purchase transaction manager residing on a first computing device interconnected to the network;

providing credit card account information from the seller of said item to said purchase transaction manager;

receiving at least one acceptable bid on said item from a potential buyer, where each acceptable bid includes credit card account information for the potential buyer;

determining a winning bid on said item by said purchase transaction manager, thereby identifying a buyer for said item; and

transacting a purchase between the buyer and the seller using the credit card account information from the buyer and the seller, including the step of crediting the credit card account of the seller.

2. The method of Claim 1 further comprises the step of providing transactional information for the item by the seller to said purchase transaction manager, where the transactional information includes a description of the item and a minimum bid amount for the item.

3. The method of Claim 1 wherein the credit account information is further defined as a credit card number and an expiration date.

4. The method of Claim 1 wherein the step of transacting a purchase further comprises the steps of:

communicating credit account information for the buyer and the seller to a credit card clearinghouse;

debiting the buyer's credit account an amount which is not less than the amount of the winning bid;

crediting said amount to the seller's credit account; and

notifying at least one of the buyer and the seller of the transacted purchase between the buyer and the seller.

5. The method of Claim 1 further comprising the step of shipping the item by the seller to the buyer after the step of transacting the purchase between the buyer and the seller.

6. The method of Claim 1 wherein the step of transacting a purchase further comprises the steps of:

providing purchase transactional information to a purchase intermediary, the purchase transactional information includes credit card information for the buyer and the

seller;

communicating credit account information for the buyer and the seller to a credit card clearinghouse;

debiting the buyer's credit account an amount which is not less than the amount of the winning bid;

crediting said amount to the seller's credit account; and

notifying at least one of the buyer and the seller of the transacted purchase between the buyer and the seller.

7. A computer-implemented purchasing system for transacting a purchase between a buyer and a seller, the purchasing system having at least two computing devices interconnected by a network, comprising:

a sellers application receptive of transactional information and residing on a first computing device, where the transactional information includes credit card account information for the seller;

a purchase transaction manager operative to offer said item for sale in response to receiving the transactional information from said sellers application, said purchase transaction manager residing on a second computing device and being interconnected to said sellers application by the network;

said purchase transaction manager receptive of at least one acceptable bid on said item from a potential buyer, where each acceptable bid includes credit card account information for the potential buyer, and operative to determine a winning bid on said item,

thereby identifying a buyer for said item; and  
said purchase transaction manager being further operative to transact a purchase  
between the buyer and the seller using the credit card account information from the buyer  
and the seller, including crediting the credit card account of the seller.

8. The purchasing system of Claim 7 further comprising a buyers application  
receptive of bid information, where the buyers application resides on a third computing  
device and is interconnected to said purchase transaction manager by the network.

9. The purchasing system of Claim 7 wherein said transactional information  
from the seller further includes a description of the item and a minimum bid amount for  
the item.

10. The purchasing system of Claim 7 wherein said credit account information  
is further defined as a credit card number and an expiration date.

11. The purchasing system of Claim 7 further comprising a credit card  
clearinghouse receptive of credit card information from said purchase transaction  
manager, the credit card clearinghouse operative to debit the buyer's credit account an  
amount which is not less than the amount of the winning bid and to credit said amount to  
the seller's credit account.

Applicant:	Sutton et al.	Case No.:	9204-000002
Serial No.:	09/420,033	Filing Date:	October 18, 1999
Title: A Method and System for Transacting a Purchase Using a Credit Card From Seller			

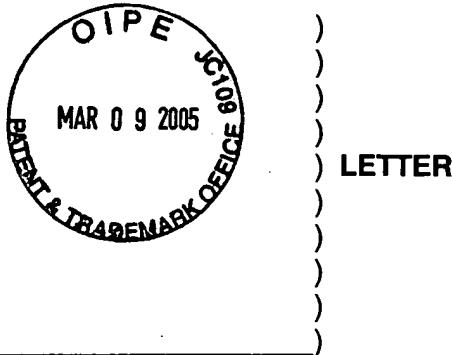
Please acknowledge receipt of: Letter (in duplicate), a Copy of Brief on Behalf of Appellants, a Copy of return Postcard, and this Postcard.



By stamping and returning to Harness, Dickey & Pierce, P.L.C.  
Due: \_\_\_\_\_ Attorney: RLC/TDM

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group Art Unit: 3628  
Examiner: Richard Fults  
Inventors: Sutton et al.  
Serial No.: 09/420,033  
Filed: October 18, 1999

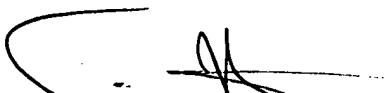


Sir:

Pursuant to a recent telephone conversation with the Examiner, Applicant hereby resubmits its Appeal Brief. Applicant notes that a timely submission of its brief occurred on September 12, 2002 (as evidenced by the documents attached hereto, including a return postcard bearing a stamped receipt date of September 18, 2002). Accordingly, Applicant requests that this submission be entered at this time.

Applicant asserts that no fee is required, however, the Commissioner is hereby authorized to charge any fee insufficiencies to our Deposit Account No. 08-0750 or credit any overpayments to that deposit account.

Respectfully submitted,



The image shows a handwritten signature in black ink, which appears to be "Timothy D. MacIntyre".

Timothy D. MacIntyre  
Reg No. 42,824  
Attorney for Applicants

HARNESS, DICKEY & PIERCE, P.L.C.  
P.O. Box 828  
Bloomfield Hills, MI 48303  
(248) 641-1600

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appeal No. \_\_\_\_\_

Group Art Unit: 2164

Examiner: Richard Fults

Applicants: Sutton et al

Serial No.: 09/420,033

Filed: October 18, 1999

Title: A METHOD AND SYSTEM FOR  
TRANSACTING A PURCHASE  
USING A CREDIT CARD FROM SELLER



**BRIEF ON BEHALF OF APPELLANTS**

This is an appeal from the action of the Examiner dated March 12, 2002, finally rejecting Claims 1-11 of the present application. Copies of the appealed claims are attached as an appendix.

### I. Real Party In Interest

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Claims 1-11 are pending in the present application. Of the pending claims, Claims 1-11 stand rejected and are appealed.

### IV. Status Of Amendments

A response to the Examiner's final rejection of the pending claims was filed on July 12, 2002. At this time, Applicant has not yet received an Advisory Action from the Examiner. However, Applicant's response to the final rejection did not contain any amendments to the pending claims, and thus Claims 1-11 stand rejected as presented in attached appendix and are appealed.

### V. Summary Of The Invention

Applicants' invention is directed generally to generally directed to a method for

transacting a purchase between a buyer and a seller using a computer-implemented system.

Auction-type web sites, such as eBay.com, have demonstrated a good deal of success by providing an online person-to-person trading forum over the Internet. These auction-type sites act primarily as a matchmaker between sellers and bidders. In general, a seller desiring to sell an item over the Internet lists the item on the web site. Along with a description of the item, the listing may include a picture of the item, a minimum bid, a time duration for the bidding process, etc. Potential buyers are then able to place bids on the item. A successful or winning bid for each item on sale is determined by various mechanism administered by the web site. Upon designation of a winning bid, the successful bidder (i.e., the buyer) receives instructions as to where they should send payment. Typically, the payment must be remitted in the form of a certified check to the seller. Upon receipt of the check, the seller ships the item to the buyer. Unfortunately, there is an inherent risk with this payment process that after receiving payment, the seller may ship an item which is in poor condition, ship an item which is inconsistent with the description of the item or never ship the item to the buyer.

Applicant's invention provides an improved method for transacting a purchase between a buyer and a seller over the Internet. Initial steps of the purchase transaction are similar to the auction process described above (see page 4, lines 5-18 of the present application). However, the purchase transaction is completed by using credit card account information from both the buyer and the seller (see page 6, line 21 thru page 7, line 10 of the present application). Specifically, Applicant's invention involves crediting

the sale amount (less any previously agreed upon transaction fee) to the credit card account of the seller. Although current credit card clearinghouse regulations only permit credit transactions as "returns" (i.e., where a corresponding debit occurs on the seller's credit card account), Applicant's invention calls for a credit transaction without the customary corresponding debit being present on the seller's credit card account.

#### VI. Issues

Does U.S. Patent No. 6,202,051 (Woolston) and U.S. Patent No. 6,240,396 (Walker) render Claims 1-11 unpatentable under 35 U.S.C. §103(a)?

#### VII. Grouping of Claims

In the present application, a first group of Claims 1-6 are directed to a method for transacting a purchase between a buyer and a seller using a computer-implemented purchasing system; whereas a second group of Claims 7-11 are directed to a computer-implemented purchasing system.

#### VIII. Arguments

Claims 1-11 stand rejected under 35 USC §103(a) as being unpatentable over U.S. Patent No. 6,202,051 (Woolston) and U.S. Patent No. 6,240,396 (Walker).

Woolston is generally directed to a computer-implemented system that enables sellers to auction items to one or more potential buyers via the Internet. As noted by the Examiner, Woolston discloses various techniques for transacting a purchase between a buyer and a seller. Payment to the seller is generally achieved using two step process:

(1) crediting an internally maintained account for the seller (e.g., see accounts 824 in Fig. 12); and (2) subsequently, cutting a check to the seller (e.g., see col. 19, lines 26-29). To the extent that such techniques involve the use of credit card accounts, Woolston only describes debiting a credit card account of the buyer (e.g., see col. 5, lines 20-24). In other words, Woolston does not teach or suggest transacting a purchase that includes the step of crediting the credit card account of the seller.

Applicant's further asserts that the step of crediting the credit card account of a seller is not an obvious extension of Woolston. Current credit card clearinghouse regulations only permit credit transactions as "returns", that is where a corresponding debit occurs on the seller's credit card account. Applicant's claimed invention calls for a credit transaction without the customary corresponding debit being present on the seller's credit card account. Thus, any reference to known credit card clearing techniques would not teach or suggest the step of crediting the seller's credit card account.

The Examiner then relies on Walker to teach a method for transacting a purchase which involves crediting the credit card account of the seller. Walker is directed generally to a method and system for facilitating the purchase of event tickets. In the Office Action dated March 12, 2002, the Examiner asserts that Walker teaches crediting the credit card account of the seller (e.g., see col. 14, lines 42-45).

However, Applicant notes that the step of crediting the seller's credit card account occurs only after a corresponding debit has been placed on the credit card account of the seller. The Board's attention is drawn to step 776 in Figure 7f of Walker. Prior to completing the transaction between the buyer and seller, a portion of the seller's credit is

reserved as a fraud deterrent in the event the seller fails to deliver the tickets to the buyer (see col. 12, lines 47-65). Subsequently, upon verification that the tickets have been surrendered by the seller to the buyer, the seller's credit card account is credited at step 798. In other words, Walker teaches crediting the seller's credit card account when a corresponding debit has been previously placed on the account in accordance with customary credit card clearing regulations. Applicant asserts that Walker does not teach or suggest the step of crediting the seller's credit card account without a corresponding debit.

Applicant's invention is similarly directed to a method for transacting a purchase between a buyer and a seller using a computer-implemented system. However, the purchase transaction is completed by using credit card account information from both the buyer and the seller. Specifically, Applicant's claimed invention involves crediting the sale amount (less any previously agreed upon transaction fee) to the credit card account of the seller. For instance, Claim 1 recites "transacting a purchase between the buyer and the seller using credit card account information from the buyer and the seller, including the step of crediting the credit card account of the seller" in combination with the other elements recited in the claim. Likewise, Claim 7 recites "said transaction manager being further operative to transact a purchase between the buyer and the seller using the credit card account information from the buyer and the seller, including crediting the credit card account of the seller" in combination with the other elements recited in the claim.

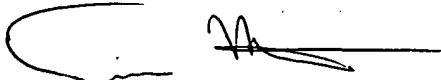
In sum, neither Woolston or Walker teach or suggest transacting a purchase that includes the step of crediting the credit card account of the seller. In view of known credit

card clearinghouse regulations, Applicant further asserts that the step of crediting the credit card account of a seller is not an obvious extension of either Woolston or Walker. Therefore, it is respectfully submitted that Claims 1 and 7, along with claims depending therefrom, defines patentable subject matter over Woolston and Walker.

#### IX. CONCLUSION

In view of the above-presented discussion, Applicants believe that the rejected claims are patentably distinguishable over the art cited by the Examiner. Accordingly, Applicant's respectfully request that this Board reverse the final rejection of Claims 1-11.

Respectfully submitted,



September 12, 2002

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## APPENDIX

### X. Claims On Appeal

1. A method for transacting a purchase between a buyer and a seller using a computer-implemented purchasing system, the purchasing system having at least two computing devices interconnected by a network, comprising the steps of:

offering an item for sale through the use of a purchase transaction manager, said purchase transaction manager residing on a first computing device interconnected to the network;

providing credit card account information from the seller of said item to said purchase transaction manager;

receiving at least one acceptable bid on said item from a potential buyer, where each acceptable bid includes credit card account information for the potential buyer;

determining a winning bid on said item by said purchase transaction manager, thereby identifying a buyer for said item; and

transacting a purchase between the buyer and the seller using the credit card account information from the buyer and the seller, including the step of crediting the credit card account of the seller.

2. The method of Claim 1 further comprises the step of providing transactional information for the item by the seller to said purchase transaction manager, where the transactional information includes a description of the item and a minimum bid amount for the item.

3. The method of Claim 1 wherein the credit account information is further defined as a credit card number and an expiration date.

4. The method of Claim 1 wherein the step of transacting a purchase further comprises the steps of:

communicating credit account information for the buyer and the seller to a credit card clearinghouse;

debiting the buyer's credit account an amount which is not less than the amount of the winning bid;

crediting said amount to the seller's credit account; and

notifying at least one of the buyer and the seller of the transacted purchase between the buyer and the seller.

5. The method of Claim 1 further comprising the step of shipping the item by the seller to the buyer after the step of transacting the purchase between the buyer and the seller.

6. The method of Claim 1 wherein the step of transacting a purchase further comprises the steps of:

providing purchase transactional information to a purchase intermediary, the purchase transactional information includes credit card information for the buyer and the

seller;

communicating credit account information for the buyer and the seller to a credit card clearinghouse;

debiting the buyer's credit account an amount which is not less than the amount of the winning bid;

crediting said amount to the seller's credit account; and

notifying at least one of the buyer and the seller of the transacted purchase between the buyer and the seller.

7. A computer-implemented purchasing system for transacting a purchase between a buyer and a seller, the purchasing system having at least two computing devices interconnected by a network, comprising:

a sellers application receptive of transactional information and residing on a first computing device, where the transactional information includes credit card account information for the seller;

a purchase transaction manager operative to offer said item for sale in response to receiving the transactional information from said sellers application, said purchase transaction manager residing on a second computing device and being interconnected to said sellers application by the network;

said purchase transaction manager receptive of at least one acceptable bid on said item from a potential buyer, where each acceptable bid includes credit card account information for the potential buyer, and operative to determine a winning bid on said item,

thereby identifying a buyer for said item; and

    said purchase transaction manager being further operative to transact a purchase between the buyer and the seller using the credit card account information from the buyer and the seller, including crediting the credit card account of the seller.

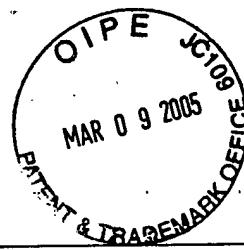
8.     The purchasing system of Claim 7 further comprising a buyers application receptive of bid information, where the buyers application resides on a third computing device and is interconnected to said purchase transaction manager by the network.

9.     The purchasing system of Claim 7 wherein said transactional information from the seller further includes a description of the item and a minimum bid amount for the item.

10.    The purchasing system of Claim 7 wherein said credit account information is further defined as a credit card number and an expiration date.

11.    The purchasing system of Claim 7 further comprising a credit card clearinghouse receptive of credit card information from said purchase transaction manager, the credit card clearinghouse operative to debit the buyer's credit account an amount which is not less than the amount of the winning bid and to credit said amount to the seller's credit account.

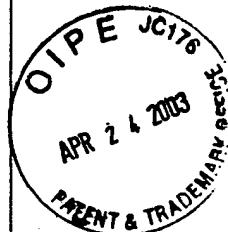
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Applicant: Sutton et al.	Case No.: 9204-000002
Serial No.: 09/420,033	Filing Date: October 18, 1999

Title: A Method and System for Transacting a Purchase Using a Credit Card From Seller

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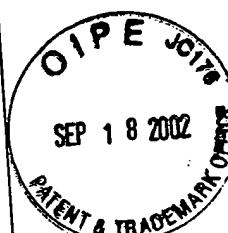
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Due:	Attorney: RLC/TDM
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